

Decision **PROPOSED DECISION OF COMMISSIONER FLORIO**  
(Mailed 5/6/16)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Order Instituting Investigation for the Purpose of Establishing a List for the Fiscal Years 2016-2017 and 2017-2018 of Existing Crossing At Grade of City Streets, County Roads or State Highways in Need of Separation, or Existing Separations in Need of Alterations or Reconstruction in Accordance with Section 2452 of the Streets and Highways Code.

Investigation 15-06-008  
(Filed June 11, 2015)

**DECISION ESTABLISHING THE CALIFORNIA GRADE SEPARATION FUND  
PRIORITY LIST FOR FISCAL YEAR 2016-2017**

**Summary**

This decision establishes the California Grade Separation Fund Priority List for Fiscal Year 2016-2017, as required by Streets and Highways Code Section 2452. In accordance with our adopted procedure, we order Investigation 15-06-008 to remain open until we issue our final decision establishing the California Grade Separation Priority List for Fiscal Year 2017-2018.

**1. Background and Introduction**

We initiated this proceeding by issuing Order Instituting Investigation (I.) 15-06-008 on June 11, 2015, to create the California Grade Separation Program Priority Lists (Priority Lists) for Fiscal Years (FY) 2016-2017 and 2017-2018. The Priority Lists establish the relative priorities for allocation of funds to qualified projects for eliminating or altering hazardous railroad crossings under Streets and Highways (S&H) code § 2450 *et seq.* These projects include construction of new grade separations to replace existing at-grade crossings, or alteration or reconstruction of existing grade separations. Section 190 of the S&H Code requires the State's annual budget to include \$15 million for funding these projects.

S&H Code § 2452 requires the California Public Utilities Commission (CPUC or Commission) to establish a priority list for projects and furnish it to the California Transportation Commission (CTC) by July 1st of each year for use in the fiscal year beginning on that date. The CTC is responsible for allocating (distributing) the funds to qualified projects, a responsibility it has delegated to the California Department of Transportation (CalTrans).<sup>1</sup>

Every two years, the Commission issues a new Order Instituting Investigation (OII), in which it determines the priority list for the next two FYs. The Commission adopts the priority list for the first FY by interim decision issued before that FY begins. The Commission then revises the priority list for the second FY by deleting projects for which funds were actually allocated in the first, adopting a revised priority list by final decision before the second FY

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<sup>1</sup> S&H Code § 2453

begins. The two-year funding cycle begins again with the issuance of a new OII for the creation of a new priority list for the following two FYs.

Our procedure also requires local agencies to furnish planned grade separation project nominations to this Commission in response to an announcement made a year prior to the cycle. The Commission reviews each nominated project to ensure that it is eligible for the California Grade Separation Program and holds a series of hearings so that nominating agencies may present each proposal, answer questions about its content, and confirm its accuracy. Attendance and participation in these hearings is mandatory for any project proponent. The Commission's Safety and Enforcement Division (SED) staff adjusts the draft priority list in accordance with evidence received at the hearings, and the list is presented to the Commission for adoption by interim decision.

The Priority List is a comparative evaluation of all qualified projects nominated and accepted for inclusion in this investigation, with the priority index value based on one of the two formulas that SED staff uses to rank projects, as published in Appendix 2 of I.15-06-008: one formula for crossings nominated for separation or elimination, and the other for existing grade separations in need of alteration or renovation. The formulas incorporate crossing inventory and accident data submitted in the nomination forms and verified by SED staff. SED staff reviews each application for qualification and creates the prioritized list from the nomination data entered into a Microsoft Excel spreadsheet that calculates the priority index value for each project. Appendix A of this decision shows the 2016–2017 Priority List, by project, in ranking order.

**2. Establishment of the Fiscal Year 2016-2017 Priority List**

After I.15-06-008 was issued, SED notified railroads, light rail transit agencies, cities, counties, and other interested parties that nominations were due by October 23, 2015, for grade separation projects proposed to be included in the current priority list. SED received a total of 38 timely submitted nominations for projects to be included in the current list. By ruling issued via electronic mail on December 17, 2015, the assigned Administrative Law Judge (ALJ) established a procedural schedule for the FY 2016-2017 part of the proceeding. After evaluating each nominated project, SED staff produced a preliminary Priority List on March 18, 2016, from the data furnished in the written nominations. The ALJ held hearings in San Francisco and Los Angeles on April 19, 2016 and April 21, 2016, respectively. At the conclusion of the hearings, the 2016-2017 Priority List was finalized by SED to include 38 nominations – all projects submitted were found to be qualified. As discussed above, the statutory procedure for creating the fiscal year 2016-2017 Priority List was properly followed, and all corrections to the draft were properly made. We therefore adopt the final priority list developed by SED without change for purposes of allocating funds in the California Grade Separation Fund (see Appendix A to this decision).

**3. Categorization and Need for Hearing**

This proceeding has been categorized as quasi-legislative. Hearings were held in accordance with our adopted procedure for establishing the biennial priority list.

**4. Comments on Proposed Decision**

The proposed decision of Commissioner Florio in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. No comments were filed.

**5. Assignment of Proceeding**

Michel Peter Florio is the assigned Commissioner and Dan H. Burcham is the assigned ALJ in this proceeding.

**Findings of Fact**

1. Written notification of the opportunity to submit nominations for separation of existing railroad grade crossings, or alteration or reconstruction of existing separations, pursuant to S&H Code § 2451, was given to railroads, light rail transit agencies, cities, counties, and others on the service list compiled at the conclusion of the previous Priority List proceeding, and the notice advised them of the deadline to file a nomination for each grade separation project they sought to include in the FY 2016-2017 Priority List.

2. SED received a total of 38 timely-submitted nominations for projects to be included in the current list.

3. SED staff ranked all nominations accepted in this proceeding in priority, and the methodology utilized by SED to rank the nominations in priority order is that which we have adopted in I.15-06-008.

4. The 2016-2017 Priority List was finalized by SED to include 38 nominations.

5. The Priority List attached as Appendix A consists of projects that were received for the record, properly supported, and put in priority order by SED staff in accordance with our adopted methodology in this proceeding.

**Conclusions of Law**

1. Appendix A should be adopted as the FY 2016-2017 Priority List in this proceeding.
2. The effective date of the Interim Order must be no later than June 30, 2016, in order to comply with S&H Code § 2452.
3. This proceeding should remain open for the purpose of creating the Fiscal Year 2017-2018 Priority List.

**O R D E R**

**IT IS ORDERED** that:

1. Pursuant to California Streets and Highways Code Section 2452, the California Grade Separation Priority List attached as Appendix A is established for Fiscal Year 2016-2017 as the list, in order of priority, of projects which the Commission determines to be most urgently in need of separation, alteration, or reconstruction.
2. The Executive Director shall furnish certified copies of this decision to the California Department of Transportation and the California Transportation Commission by not later than July 1, 2016.
3. Investigation 15-06-008 must remain open until we issue our final decision.
4. Staff must take all necessary actions to establish the California Grade Separation Priority List for Fiscal Year 2016-2017 in a timely manner, as required by law.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.

## **Appendix A**

# **California Grade Separation Program Priority List**

**for Fiscal Year 2016 – 2017**

**[THERE WERE NO CHANGES  
MADE TO APPENDIX A]**